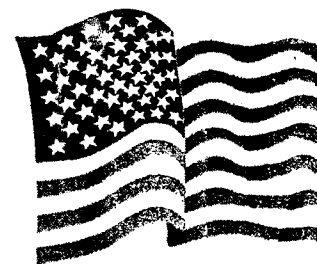


SAN
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Water company loses appeal

Court rules firm liable for health claims even if water met standards

By Laurence Darmiento
STAFF WRITER

A state appeals court has upheld a ruling that a San Gabriel Valley water company can be liable for claims stemming from the sale of possibly contaminated water, even if the water met government standards when it was

sold years ago.

The ruling will allow hundreds of residents to pursue a lawsuit against San Dimas-based Southern California Water Co. The decision applies only to that company but could eventually set a precedent for the entire water industry, the plaintiffs' attorney said.

"This makes it incumbent on

the companies to make sure the water is safe," attorney Mark Algorri said. "The water companies are the supposed experts. Why should they be waiting for the state to tell them what to do?"

A spokeswoman for Southern California Water Co. said the company supplies safe drinking water to its 12,000 San Gabriel Valley customers and plans to appeal the

decision to the state Supreme Court.

"The company provides safe water that meets state and federal standards," spokeswoman Jennifer Minow said.

In a January ruling, the 2nd District Court of Appeal in Los Angeles upheld a lower court decision that would hold Southern California Water Co. liable for

past sales of water that met state and federal standards, if it can be proved the water caused illness.

David Spath, chief of drinking water safety for the state Department of Health Services, said that if the ruling is upheld on further appeal it would mean that companies could be liable for selling

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water the state deems safe.

"What good are standards unless what you are saying is that the water has to be perfect H₂O, and that strikes me as totally impossible," Spath said. "I don't know how the (companies) could operate."

In court documents, Southern California Water Co. has said that if the lawsuit were to proceed the company would prevail, but the company's legal cost ultimately would be borne by customers.

At issue is water drawn from local wells to supply post-World War II suburbs. State and federal environmental officials now suspect some water received industrial pollution starting in the 1940s and 1950s.

The contamination was discovered in a portion of the Valley's underground water basin in 1979. Five years later four areas were named to the federal Superfund list of the most polluted sites in the nation.

Dozens of Valley drinking wells have been shut down because of pollution. Water companies also were ordered to test for additional toxic substances.

In a lawsuit filed last April in Los Angeles Superior Court, residents living in unincorporated Arcadia and portions of Monrovia, Temple City and El

Monte claimed Southern California Water Co. supplied water contaminated by industrial solvents, resulting in cancers and scores of deaths.

Although the water met government drinking water standards at the time, the residents claimed it had been contaminated decades earlier with solvents that the company was not required to test for.

The lawsuit alleges the company was negligent because it knew or should have known the water was contaminated.

The residents must prove the water was a factor in their illnesses.

The appeals court decision stems from Southern California Water's effort last year to stop the lawsuit on the legal grounds the water met safety standards. A Superior Court judge refused to dismiss the lawsuit. The appeals court upheld the lower court decision in a one-line ruling.

The ruling could set a statewide precedent that would treat water as any other product, making suppliers liable for injuries or deaths even if they were not required by the government to test for the contaminants in question, Algorri said.

Two new lawsuits were filed last week against San Gabriel Valley Water Co., Suburban Water Systems and its parent, Southwest Water Co., alleging illnesses and death caused by contaminated Valley water.

The lawsuits allege water companies should be liable for selling water contaminated by industrial solvents and a rocket fuel ingredient, even though the

water met state standards at the time it was sold.

The suits were filed by some two dozen residents living in the communities of Baldwin Park, Covina, El Monte, Glendora, Industry, Hacienda Heights, La Puente, Rosemead, South El Monte and West Covina.

The lawsuits are being handled by Algorri and two other firms.

An official with Southwest and its subsidiary, Suburban, which are based in the Valley, declined to comment, saying he was unaware of the lawsuit.

David Whitehead, president of San Gabriel Valley Water Co., said the El Monte-based company expects to prevail in the lawsuit. He said he was familiar with the litigation reviewed by the appeals court and cautioned against reading too much into the decision.

"They are just arguing about what the court might consider. Irrespective of what the Supreme Court might do now, that does not prevent Southern California (Water Co.) from raising the same issue again later or taking up a regular appeal when the (case is decided)," Whitehead said.

But he agreed that if the principle of strict liability is ultimately upheld it would raise serious questions for the state's water industry.

"Up until now the entire industry has been operating on the belief that the safe drinking water standards were the rule of law. Now, the allegation is it doesn't matter if you meet that. That is a fundamental issue," he said.